

**NEW JERSEY DIVISION OF TAXATION
TECHNICAL BULLETIN**

DISTRIBUTION:	C, INCLUDING FIELD	TB-43 (R)
FOR RELEASE:	INTERNAL ONLY OUTSIDE DIVISION	ISSUED: 6-22-98
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TAX:	TOBACCO PRODUCTS WHOLESALE SALES AND USE TAX	
TOPIC:	GUIDELINES	

N.J.S.A. 54:40B-1, et seq., imposes a Tobacco Products Wholesale Sales and Use Tax at the rate of 48% (24% for the period from July 1, 1990 to December 31, 1997) on receipts from every sale of tobacco products, other than cigarettes, by a distributor or wholesaler to a retail dealer or consumer. The tax rate of 48% is applicable to all tobacco products delivered to retail dealers or consumers on or after January 1, 1998, even if sold under a contract entered into before that date.

“Tobacco product” means any product containing any tobacco for personal consumption including, but not limited to, cigars, little cigars, cigarillos, chewing tobacco, pipe tobacco, smoking tobacco, and their substitutes, and snuff. Cigarettes are exempt from the Tobacco Products Wholesale Sales and Use Tax.

Use Tax

Distributors and wholesalers who also sell tobacco products at retail or otherwise use the tobacco products must pay a compensating use tax of 48% on the wholesale sales price of the products.

If the distributor or wholesaler has not collected the 48% Tobacco Products Wholesale Sales Tax from the retailer or consumer, the retailer or the consumer who purchased from a distributor or wholesaler is responsible for remitting the compensating use tax of 48% of the price paid or charged for the tobacco product directly to the Division of Taxation within 20 days of the date the tax was required to be paid.

Collection of Tax

Distributors and wholesalers are required to:

- Collect the tax from the retailer or consumer when they collect the receipts for the products, and
- Give the retailer or consumer an invoice, receipt, or other statement or memorandum on which the tax is separately stated.

IMPORTANT NOTE: The Tobacco Products Wholesale Sales and Use Tax is a trust tax. This means that the distributor or wholesaler who collects the tax is acting as a trustee for and on behalf of the State of New Jersey. These distributors and wholesalers are, by law, personally responsible for the tax imposed, collected or required to be collected under the Tobacco Products Wholesale Sales and Use Tax Act.

Resale Certificate (Form TPT-3)

The Tobacco Products Wholesale Sales and Use Tax Resale Certificate, Form TPT-3, may be used by registered distributors or wholesalers to purchase tobacco products intended for resale. When purchasing tobacco products, a distributor or wholesaler issues Form TPT-3 to the seller. The completed certificate documents the fact that the distributor or wholesaler is not subject to Tobacco Products Wholesale Sales and Use Tax on the purchase. The distributor or wholesaler must collect the tax when the tobacco products are sold to a retailer or consumer. Retail dealers may not use Form TPT-3 to purchase tobacco products without paying the Tobacco Products Wholesale Sales and Use Tax.

Registering to Collect the Tax

Every distributor and wholesaler making sales of tobacco products to retail dealers or consumers must register with the Division of Taxation to collect the Tobacco Products Wholesale Sales and Use Tax. Distributors and wholesalers beginning business or opening new places of business are required to file an Application for Registration (Form REG-1) at least 15 days before beginning business.

Once the application is processed by the Division, the distributor or wholesaler will receive a Certificate of Authority to collect tax. This certificate must be prominently displayed in the distributor's or wholesaler's place of business. Duplicate certificates will be provided for additional places of business.

Remitting the Tax

Distributors and wholesalers are required to file a Tobacco Products Wholesale Sales and Use Tax Return (Form TP-20) and remit the tax on or before the 20th day of the month following the month for which the return is being filed. If any due date falls on a Saturday, Sunday or legal holiday, the return is due on the next business day.

Tobacco Products Wholesale Sales and Use Tax Returns postmarked on or before their due date are considered to be filed on time. Returns postmarked after their due date are considered to be late and are recorded as being filed on the date they were actually received by the Division, not the postmark date. The tax must be paid whether or not the tax has actually been collected from the customer by the time the return is due. Full penalty and interest as provided by the State Tax Uniform Procedure Law, assessed from the due date of the return, will be imposed on a return filed and/or payment made after the due date.

An extension of time to pay the tax due will not be granted under any circumstances.

Record Keeping

Distributors and wholesalers are required to keep records of every charge and of all amounts paid, charged or due and of the tax payable on these amounts. These records must include a true copy of each invoice, receipt, statement or memorandum showing the tax separately for all sales of tobacco products. These records must be available for inspection by the Division of Taxation for four years from the date of the transaction.

For more information, contact the Division's Tax Hotline at 609-588-2200 or write to:

NEW JERSEY DIVISION OF TAXATION
TECHNICAL SERVICES TSB/OCE
PO BOX 281
TRENTON NJ 08646-0281

Many State tax forms and publications are now available, both by fax and through the World Wide Web. Call NJ TaxFax at 609-588-4500 from your fax machine's phone, or access the Division's home page via your computer's modem at: <http://www.state.nj.us/treasury/taxation/>
